IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. 3091 of 1984

The Board of Trustees of the Port of Bombay .. Plaintiff

versus

M/s.Berlin Chemical Traders P.Ltd. .. Defendant

...

Mr.U.J. Makhija i/b Mulla & Mulla for the plff.

Mr.Manoharlal Bansal for the defendant.

CORAM : D.G. KARNIK,J.

DATED : 4th August 2005.

P.C.:

1. Heard learned counsel for the parties.

2. Learned counsel for the defendant makes an oral request for permission to file written statement. Summons was served more than 20 years ago. The written statement has not been filed for 20 years. No written application has been filed explaining the delay. No affidavit is also filed.

In the circumstances. the oral request unsupported by any material to explain the delay cannot be accepted.

3. Learned counsel for the defendant submits that the suit is barred by limitation. In view of the fact that the sale was effected on 11th May 1981 and credit for the sale proceeds was given on 11.5.1981, cause of action of the suit for recovery of the balance amount arose only on 11.5.1981. Suit has been filed within three years. Hence. there is no merit in the application that the suit is barred by limitation.

4. As the defendant has not filed written statement, suit is decreed under Order 8 Rule 10 of the Code of Civil Procedure in terms of prayer clause (a) with the modification that the interest would be charged at 9% p.a. from the date of the suit till payment.

D.G. KARNIK, J